

Application No. 10/622,366

PATENT
Docket No.: 10393-41858Remarks

Applicants respectfully request favorable reconsideration in view of the herewith presented remarks.

Claim 1-29 are pending in the instant application, and claims 1-29 have been rejected.

Rejections under 35 U.S.C. § 103(a)

Claims 1, 3-5, 8-14, 16-18, and 21-29 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kaufman* (U.S. Pat. No. 6,247,612) in view of *Wilson* (U.S. Pat. No. 6,149,955). Applicant respectfully traverses this rejection.

In presenting this rejection, the Examiner describes *Kaufman* as showing "the apparatus and method for delivering a vendable article having a prize delivery mechanism to hold a premium, coins 246 and the shirt, which is shrink-wrapped." Applicant respectfully takes issue with such a broad interpretation of the *Kaufman* reference, and shows that *Kaufman* does not disclose, teach or suggest the claimed subject matter having a currency slot for receiving local currency appropriate for vending machines at various places. *Kaufman* describes a method for dispensing a compressed fabric article, or promotional item, contained within a plastic soda bottle, or product item, wherein "the compressed fabric article 242 substantially fills the bottle 252." (Col. 7, lines 34-36.)(Emphasis supplied.) *Kaufman* teaches that preferably, "the compressed fabric article 242 contains a pre-selected amount of money 246" wherein the money can be "incorporated into the fabric article compression process so that it is contained in the compressed fabric article 242." (Col. 7, lines 13-18.)(Emphasis supplied.)

It is submitted that *Kaufman* thus teaches away from the claimed invention for two reasons: first, the promotional item of *Kaufman* substantially fills the bottle, thereby leaving no room for later insertion of any currency into a currency slot, and second, *Kaufman* has pre-selected money in the article, thereby obviating later insertion of currency.

Application No. 10/622,366

PATENT
Docket No.: 10393-41858

Kaufman does not teach or suggest utilizing a coin slot to insert the number and denomination of the currency of the locale in which the promotion is taking place. Rather, *Kaufman* teaches that the money is introduced into the bottle upon initial insertion of the compressed fabric article, in a preselected amount. *Kaufman* does not teach or suggest inserting the currency into the bottle at a time other than the time when the premium is inserted into the bottle.

Furthermore, the Examiner describes the shirt 242 of *Kaufman* as being shrink-wrapped. *Kaufman* does not teach or suggest shrink-wrapping the whole bottle or container to prevent the inadvertent or deliberate loss of the coins through the coin slot.

The Examiner also describes the "prize delivery mechanism" of *Kaufman* as having a "'carrier' 252a (claim 11, 24) or the bottom part of the container (claim 13, 26) to *encapsulate the premium." With all due respect, applicant disagrees with the Examiner's characterization of the bottom part 252a of the container in *Kaufman* as a "carrier" as that term is used in the claims as presented. *Kaufman* teaches that the bottle 252 is cut into two pieces 252a, 252b and that the compressed fabric article or shirt is placed into one of the two pieces (252a or 252b) of the bottle. *Kaufman* does not teach or suggest a vendable prize delivery mechanism, or bottle, that has a top section that can be screwed or snapped into a bottom section. Nor does *Kaufman* teach or suggest the insertion of the premium or compressed fabric article into a carrier that is a separate element from the top section and the bottom section of the bottle.

The present application describes the carrier as a separate element from the top section and bottom section of the bottle. The premium is inserted into a carrier. The carrier, with the premium inside the carrier, is then inserted into the bottle. Claim 1 thus recites a removable section to allow insertion of the premium into the interior of the article. Once the carrier with the premium is inside the bottle, the bottom section of the bottle is screwed or snapped onto the top section of the bottle (e.g. see dependent claims 6 and 7). *Kaufman* does not teach or suggest insertion of a carrier with a premium into the inside of the bottle as the present invention teaches. Furthermore, *Kaufman* does not

Application No. 10/622,366

PATENT
Docket No.: 10393-41858

teach or suggest that once the carrier with the premium is inside the bottle, the bottom section of the bottle is screwed or snapped into the top section of the bottle.

The Examiner further characterizes the carrier (bottom part of the bottle) of *Kaufman* as being “‘interlocked’ with the top part 252b to hold the premium in so much as the top part and the carrier components are coupled together or interlocked.” Applicant respectfully disagrees with this characterization of the *Kaufman* reference. *Kaufman* teaches that “once the compressed [fabric article or shirt] 242 is placed within one of the pieces 252a of the bottle 252, the other piece 252b of the bottle is positioned with respect to the first piece such that the bottle takes its original shape and contains the compressed [fabric article or shirt.]” (Col. 6, lines 48–52.) (Emphasis supplied).

It is thus apparent that *Kaufman* teaches a two-part construction with a first piece and a second piece that are held together by a label 256 (FIG. 10). *Kaufman* does not teach or suggest a bottle that has a top section that can be screwed or snapped into a bottom section. Rather, *Kaufman* teaches a means for securing the two pieces of the bottle by providing a sleeve or transparent shrink-wrap placed around the bottle and heat shrunk to secure the two pieces together. (See Col. 7, lines 62–65.) Furthermore, *Kaufman* does not teach or suggest the use of a carrier plug as described in the present application that firmly holds the carrier in place and stabilizes the premium during transportation and handling.

The Examiner explains that the components of *Kaufman* are “‘weighted’ in so much as any component structure might have inherent weight.” The Examiner also states “the prize delivery mechanism [of *Kaufman*] is of a size and shape like that of the primary product containers in a local vending machine.” Admittedly, the prize delivery mechanism or bottle of *Kaufman* is the size and shape of the bottles in a local vending machine. *Kaufman* also teaches and describes, “that the compressed fabric article acts a [sic] load-bearing structure to prevent deformation or collapse of the product container of the promotional item 240,” (Col. 7, lines 44–47).

However, the premium of the present invention does not “substantially fill[] the bottle” as *Kaufman* teaches. (See Col. 7, lines 34–35). Instead, an article constructed an

Application No. 10/622,366

PATENT

Docket No.: 10393-41858

accordance with aspects of the present may include a removable bottom section made of solid material in order to provide additional weight to more closely approach the weight of a bottle full of beverage. The present application also teaches and describes inserting the premium into a carrier that adds additional weight so that the assembled container approaches the weight of a bottle container filled with beverage. *Kaufman* does not teach or suggest a removable bottom section made of solid material or a carrier into which the premium is inserted.

In regard to claim 14, the Examiner asserted that "the prize delivery mechanism would be 'shipped' in so much as the prize delivery mechanism would need to be inherently transported (shipped) to the local vending machine after its assembly to necessitate the vending from the vending machine." With all due respect, the Examiner fails to appreciate the full scope of the invention as set forth in claim 14. Claim 14 is not just about "shipping the vendable prize delivery mechanism" to the local vending machine. Rather, claim 14 relates to a method in which the vendable prize delivery mechanism is manufactured in one locale while the insertion of currency into the coin slot is performed at another locale. In order for this process to occur, the vendable prize delivery mechanism needs to be "shipped" from the location where the vendable prize delivery mechanism is manufactured to the location where the currency will be inserted via the currency slot into the vendable prize delivery mechanism. In the *Kaufman* reference, the currency and the premium are inserted into the bottle at the same time and at the same place as initial manufacture. *Kaufman* does not teach or suggest manufacturing a vendable prize delivery mechanism with an open currency slot and then shipping the vendable prize delivery mechanism to another locale where the currency is introduced into the vendable prize delivery mechanism via a currency slot.

Applicant also respectfully takes issue with the Examiner's interpretation of the slot disclosed in the *Wilson* reference. *Wilson* describes a "Snack Food Container and Coin Bank" wherein the snack food container is a transparent bottle with an opening that is closed by a cap. (See Col. 3, lines 28-31, 44-53.) The opening of the bottle is used to load snack food products, such as popped popcorn, into the bottle. (See Col. 3, lines 33-35.) *Wilson* teaches that the top of the cap includes a token slot. (Col.3, lines 54.) The

Application No. 10/622,366

PATENT
Docket No.: 10393-41858

Wilson reference further teaches that a pressure sensitive adhesive strip is positioned on the interior face of the top of the cap to cover the token slot to assist in preserving and maintaining fresh the popped popcorn in the bottle. (See Col. 3, lines 56-61). This has nothing to do with introduction of proper local currency in the type and amount dictated by the local specific primary product cost into the vendable prize delivery mechanism, as per Claim 14.

The *Wilson* reference does not teach or suggest manufacturing a vendable prize delivery mechanism, or bottle, with a currency slot that remains open while being shipped from the place of manufacture to another locale. The slot described and disclosed in *Wilson* is covered before shipment of the bottle. In the present invention, the currency slot remains open while being shipped from the location where the vendable prize delivery mechanism was manufactured to the location where currency is inserted into the vendable prize delivery mechanism via the currency slot. Furthermore, the currency slot of the present invention is covered after the currency has been inserted into the vendable prize delivery mechanism. *Wilson* teaches the opposite, namely, covering the currency slot before the currency is actually inserted into the bottle – after all it is a coin bank with preinserted snack food and not a vendable prize delivery mechanism.

The *Wilson* reference describes a token slot as “having sufficient length and width to receive coins as large as a United States silver dollar and folded bills.” (Col. 3, lines 54-56.) This teaching is not in accordance with the teaching of the present invention. The vendable prize delivery mechanism of the present invention utilizes a currency slot in which local market currencies in differing denominations, amounts, and coinage can be inserted into the vendable prize delivery mechanism through the currency slot. In other words, the currency slot of the present invention is not limited to a length and width as to only receive United States currency in the way the currency slot described in *Wilson* is limited. A novel feature of this invention is the ability to insert the currencies of different countries into the currency slot of the vendable prize delivery mechanism. *Wilson* clearly does not teach or suggest a coin slot capable of receiving the currency of countries other than the United States.

Application No. 10/622,366

PATENT
Docket No.: 10393-41858

Furthermore, the *Wilson* reference does not teach or suggest inserting currency into the slot while the premium (popped popcorn) is in the bottle. This would not be sanitary nor would it preserve the freshness of the food product. In the present invention, the currency is inserted into the currency slot while the premium is inside the vendable prize delivery mechanism. *Wilson* teaches, "using the bottle as a coin bank after the snack food has been emptied from the bottle." (Col. 4, lines 35-37.) (Emphasis supplied.)

For the foregoing reasons, it is submitted that claims 1 and 14, as amended, and their respective dependent claims, are not obvious in view of *Kaufman* or *Wilson*, taken singularly or in combination, because neither patent discloses, teaches, or suggests the claimed invention, nor provides the requisite teachings.

Claims 2, 7, 15, and 20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kaufman* (U.S. Pat. No. 6,247,612) in view of *Wilson* (U.S. Pat. No. 6,149,955) as applied to claims 1, 3-5, 8-14, 16-18, and 21-29 above, and further in view of *Dworman et al.* (U.S. Pat. No. 5,069,645). Applicant respectfully traverses this rejection for the reasons discussed above in connection with claims 1, 3-5, 8-14, 16-18, and 21-29. Applicant also traverses this rejection for the following reasons.

In asserting this rejection, the Examiner states "to provide that the components of *Kaufman*'s prize delivery mechanism are snapped together, would have been obvious in view of the teachings of *Dworman et al.*'s use of the disclosed snapped together components to also provide for a coin receiving container and to effect a more ready and secure attachment for the components." *Dworman et al.* teaches a coin bank comprising several portions that are attachable in a snap fit. The *Dworman et al.* reference does not teach or suggest a vendable prize delivery mechanism resembling a beverage can in which a premium or prize is inserted into the vendable prize delivery mechanism and dispensed to a consumer via a vending machine. Furthermore, the *Dworman et al.* reference does not teach or suggest inserting currency via a currency slot into the vendable prize delivery mechanism after a premium has been inserted into the delivery mechanism. The coin bank disclosed and described by *Dworman et al.* does not contain currency and a premium, nor is the coin bank of *Dworman et al.* vendable.

Application No. 10/622,366

PATENT
Docket No.: 10393-41858

Claims 6 and 9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kaufman* (U.S. Pat. No. 6,247,612) in view of *Wilson* (U.S. Pat. No. 6,149,955) as applied to claims 1, 3-5, 8-14, 16-18, and 21-29 above, and further in view of *Howes* (U.S. Pat. No. 4,911,320). Applicant respectfully disagrees with this rejection for the reasons discussed above in connection with claims 1, 3-5, 8-14, 16-18, and 21-29. Applicant also traverses this rejection for the following reasons.

In asserting this rejection, the Examiner states "[t]o provide that the components of Kaufman's prize delivery mechanism are screwed together would be obvious in view of the teachings of Howes' use of the screw threads 34,41 in figure 2 to effect the assembly of container components and to effect a more secure attachment of the components." *Howes* teaches a simulated product container for liquid, semi-liquid, or moist products constructed for secretly retaining a prize award while being indistinguishable from genuine product containers. (See Col. 1, lines 5-11.) The simulated product container of *Howes* comprises a threaded chamber that "interengages" with a threaded cap. (See Col. 4, lines 59-68). The *Howes* reference does not teach or suggest a vendable prize delivery mechanism in which a premium or prize is inserted into the delivery mechanism and dispensed to a consumer via a vending machine. The simulated product container described in *Howes* is placed on a store shelf for consumers to purchase. (See Col. 1, lines 51-58).

Furthermore, no reference teaches the later insertion of currency at a different location than the location of manufacture of the article and prize insertion. The *Howes* reference does not teach or suggest inserting currency via a currency slot into the vendable prize delivery mechanism after a premium has been inserted into the delivery mechanism. The simulated product container disclosed and described by *Howes* does not contain currency and a premium or prize, nor is the simulated product container of *Howes* vendable.

Based on the foregoing, the instant claims are not rendered obvious by the references cited by the Examiner. For these reasons, applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103.

Application No. 10/622,366

PATENT

Docket No.: 10393-41858

Conclusion

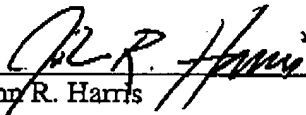
For the foregoing reasons, it is respectfully submitted that independent claims 1 and 14, and their respective dependent claims, are novel, and are non-obvious in view of the references and should be allowable. The foregoing is presented as a full and complete response to the Office Action mailed April 29, 2005, and is believed to have placed all claims in condition for allowance. Such action is courteously solicited. If any issues remain that can be resolved by telephone, the Examiner is respectfully requested to contact the undersigned at 404-233-7000.

Respectfully submitted,

MORRIS, MANNING & MARTIN, LLP

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Morris, Manning & Martin, L.L.P.
1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta, Georgia 30326
404 504 7720 Direct
404 233 7000 Main


John R. Harris
Reg. No. 30,388
Attorneys for Applicant